

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUBEN TONY CERVANTES,) Case No.: 1:20-cv-00188-NONE-JLT (HC)
Petitioner,)
v.) ORDER WITHDRAWING FINDINGS AND
W.J. SULLIVAN, Warden,) RECOMMENDATION (Doc. 13)
Respondent.)
) ORDER CONSTRUING RESPONSE AS MOTION
) TO LIFT STAY
) ORDER GRANTING MOTION TO LIFT STAY
) (Doc. 12)

On February 6, 2020, Petitioner filed the instant petition for writ of habeas corpus raising only one exhausted claim. (Doc. 1.) Petitioner filed a motion for a stay and abeyance of the proceedings, in which he includes three claims to be exhausted. (Doc. 4.) Respondent did not oppose this request (Doc. 9), and on April 14, 2020, the Court granted the stay. (Doc. 10.) Petitioner had failed to comply with the Court's orders and time allowances, therefore, the Court issued findings and recommendation to dismiss the petition. (Doc. 13.) However, on the same day, Petitioner filed a response to the Court's order, stating that he has not been able to exhaust state remedies, and requesting to withdraw the stay and abeyance and proceed with the one issue raised in his habeas petition. (Doc. 12 at 1.) The Court will construe this as a motion to lift the stay.

ORDER

Accordingly, the Court **ORDERS**:

1. The findings and recommendation dated July 23, 2020 (Doc. 13) are **WITHDRAWN**;

2. Petitioner's motion to lift the stay (Doc. 12) is **GRANTED**.

IT IS SO ORDERED.

Dated: July 24, 2020

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE